

FILED

Case 1:07-cv-006371

Document 6

Filed 11/19/2007

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NOVEMBER 19, 2007MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURTUNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**RECEIVED**NOV - 9 2007
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MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Patricia A. Winkfield

(Name of the plaintiff or plaintiffs)

v.
ATR Janitorial Ser. Inc.

(Name of the defendant or defendants)

CIVIL ACTION

NO 07CV6371
JUDGE BUCKLO
MAG. JUDGE NOLAN**COMPLAINT OF EMPLOYMENT DISCRIMINATION**

1. This is an action for employment discrimination.
2. The plaintiff is Patricia A. Winkfield of the
county of COOK in the state of ILLINOIS
3. The defendant is ATR Janitorial Ser. Inc. + Eusinia, whose
street address is 5234 West 25th Street
(city) CICERO (county) COOK (state) IL (ZIP) 60804
(Defendant's telephone number) 708-656-8300
- II The plaintiff sought employment or was employed by the defendant at (street address)
Dyweght School
555 East 51st Street (city) CHICAGO
(county) COOK (state) IL (ZIP code) 60615

5. The plaintiff [check one box]

- (a) ☐ was denied employment by the defendant.
- (b) ☐ was hired and is still employed by the defendant.
- (c) ☒ was employed but is no longer employed by the defendant.

6. The defendant discriminated against the plaintiff on or about, or beginning on or about,
 (month) April, (day) 3rd, (year) 2006.

7.1 (Choose paragraph 7.1 or 7.2, do not complete both.)

(a) The defendant is not a federal governmental agency, and the plaintiff [check
 one box] ☐ has ~~not~~ ☒ has filed a charge or charges against the defendant
 asserting the acts of discrimination indicated in this complaint with any of the following
 government agencies:

- (i) ☒ the United States Equal Employment Opportunity Commission, on or about
 (month) July (day) 26 (year) 2006.
- (ii) ☒ the Illinois Department of Human Rights, on or about
 (month) July (day) 26 (year) 2006.

(b) If charges were filed with an agency indicated above, a copy of the charge is
 attached. ☒ YES. ☐ NO, but plaintiff will file a copy of the charge within 14 days.

It is the policy of both the Equal Employment Opportunity Commission and the Illinois
 Department of Human Rights to cross-file with the other agency all charges received. The
 plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

(a) the plaintiff previously filed a Complaint of Employment Discrimination with the
 defendant asserting the acts of discrimination indicated in this court complaint.

- ☐ Yes (month) _____ (day) _____ (year) _____
- ☐ No, did not file Complaint of Employment Discrimination

2. The plaintiff received a Final Agency Decision on (month) _____
 (day) _____ (year) _____

c. Attached is a copy of the

a. Complaint of Employment Discrimination,

☐ YES ☐ NO, but a copy will be filed within 14 days.

(ii) Final Agency Decision

☐ YES ☐ NO, but a copy will be filed within 14 days.

8. (Complete paragraph 8 only if defendant is not a federal governmental agency.)

(a) ☐ the United States Equal Employment Opportunity Commission has not issued a
Notice of Right to Sue.

(b) ☐ the United States Equal Employment Opportunity Commission has issued a
Notice of Right to Sue, which was received by the plaintiff on
(month) _____ (day) _____ (year) _____ a copy of which Notice
is attached to this complaint.

9. The defendant discriminated against the plaintiff because of the plaintiff's [*check only those that apply*]:

- (a) ☐ Age (Age Discrimination Employment Act).
- (b) ☒ Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (c) ☐ Disability (Americans with Disabilities Act or Rehabilitation Act)
- (d) ☒ National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (e) ☒ Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (f) ☐ Religion (Title VII of the Civil Rights Act of 1964)
- (g) ☐ Sex (Title VII of the Civil Rights Act of 1964)

10. If the defendant is a state, county, municipal (city, town or village) or other local governmental agency, plaintiff further alleges discrimination on the basis of race, color, or national origin (42 U.S.C. § 1983).

11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000e-5(f)(3); for 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the A.D.E.A. by 42 U.S.C. §12117; for the Rehabilitation Act, 29 U.S.C. § 791.

12. The defendant [*check only those that apply*]

- (a) ☐ failed to hire the plaintiff.
- (b) ☒ terminated the plaintiff's employment.
- (c) ☐ failed to promote the plaintiff.

- (d) ☐ failed to reasonably accommodate the plaintiff's religion.
- (e) ☒ failed to reasonably accommodate the plaintiff's disabilities.
- (f) ☐ failed to stop harassment;
- (g) ☐ retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;
- (h) ☒ other (specify): Discharge April 3, 2006 Due to Race, Black
My RACE IS BLACK

My PERFORMANCE WAS SATISFACTORY. I STARTED WORKING FOR
RESPONDENT ON DECEMBER 27, 1998, AND I HAD A GOOD EMPLOYMENT
RECORD. ON APRIL 3, 2006 EUSINIA (Last Name unknown, NOW BLACK
PERSONNEL OFFICER, DISCHARGED ME. THE REASON GIVEN WAS
~~FAILING TO RETURN~~
FAILING TO RETURN TO WORK WITHOUT ASKING FOR ADDITIONAL
TIME OFF.

13. The facts supporting the plaintiff's claim of discrimination are as follows:

EUSINIA CLAIMED I DID NOT REQUEST
ADDITIONAL TIME FOR MY MEDICAL LEAVE, BUT
I THAT FALSE. IN JANUARY, 2006, I WENT
ON A MEDICAL LEAVE TO HAVE AN OPERATION.
IN MID/LATE MARCH 2006, ~~THE~~ I INFORMED EUSINIA
THAT I NEEDED ADDITIONAL TIME OFF BECAUSE
MY DOCTOR WAS NOT GOING TO RELEASE ME TO RETURN TO WORK ON
THE DATE RESPONDENT EXPECTED ME TO RETURN.

14. [AGE DISCRIMINATION ONLY] Defendant knowingly, intentionally, and willfully discriminated against the plaintiff.

15. The plaintiff demands that the case be tried by a jury. ☐ YES ☒ NO

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff
 [check only those that apply]

- (a) ☐ Direct the defendant to hire the plaintiff.
- (b) ☐ Direct the defendant to re-employ the plaintiff.
- (c) ☐ Direct the defendant to promote the plaintiff.
- (d) ☐ Direct the defendant to reasonably accommodate the plaintiff's religion.
- (e) ☐ Direct the defendant to reasonably accommodate the plaintiff's disabilities.

(f) ☐ Direct the defendant to (specify): _____

(g) ☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.

(h) ☐ Grant such other relief as the Court may find appropriate.

(Plaintiff's signature)

Patricia A. Winkfield

(Plaintiff's name)

Patricia A. Winkfield

(Plaintiff's street address)

11211 South KING DRIVE

(City) Chicago (State) IL (ZIP) 60628

(Plaintiff's telephone number) (773) - 392 - 1661

Date: NOV. 09, 2007

LOCAL RULES 5.2 — 5.4

LR5.2. Form of Papers Filed

(a) PAPER AND FONT SIZE. Each document filed shall be flat and unfolded on opaque, unglazed, white paper approximately 8 1/2 x 11 inches in size. It shall be plainly written, or typed, or printed, or prepared by means of a duplicating process, without erasures or interlineations which materially deface it. It shall be bound or secured on the top edge of the document. Where the document is typed, line spacing will be at least 1 1/2 lines. Where it is typed or printed, (1) the size of the type in the body of the text shall be 12 points and that in footnotes, no less than 11 points, and (2) the margins, left-hand, right-hand, top, and bottom, shall each be 1 inch.

EEOC Form 161 (3/98)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Patricia Winkfield
11211 South King Dr #3B
Chicago, IL 60628

From: Chicago District Office
500 West Madison St
Suite 2800
Chicago, IL 60661

Certified Mail: 7099 3400 0014 4054 3409



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

21B-2006-02252

Armernola P. Smith,
State & Local Coordinator

(312) 886-5973

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

John P. Rowe

11/5/07

Enclosures(s)

John P. Rowe,
District Director

(Date Mailed)

cc: A & R JANITORIAL SERVICE

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974: See Privacy act statement before completing this form.

07W0717.12

AGENCY

☒ IDHR☐ EEOC

CHARGE NUMBER

2007CF0155

Illinois Department of Human Rights and EEOC

NAME (Indicate Mr. Ms. Mrs.)

Patricia A. Winkfield

HOME TELEPHONE (include area code)

(773) 932-3587

STREET ADDRESS

238 W 115th St.

CITY, STATE AND ZIP CODE

Chicago, IL 60628

DATE OF BIRTH

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (IF MORE THAN ONE LIST BELOW)

NAME

A & R Janitorial Service,
IncorporatedNUMBER OF EMPLOYEES,
MEMBERS 15+

TELEPHONE (Include area code)

(708) 656-8300

STREET ADDRESS

5234 W. 25th St.

CITY, STATE AND ZIP CODE

Cicero, IL 60804

COUNTY

Cook

CAUSE OF DISCRIMINATION BASED ON:

RACE

DATE OF DISCRIMINATION

EARLIEST (ADEA/EPA) LATEST (ALL)

4/3/06

☐ CONTINUING ACTION

THE PARTICULARS ARE (if additional space is needed attach extra sheets)

I. A. ISSUE/BASIS**DISCHARGE - APRIL 3, 2006/DUE TO RACE, BLACK****B. PRIMA FACIE ALLEGATIONS**

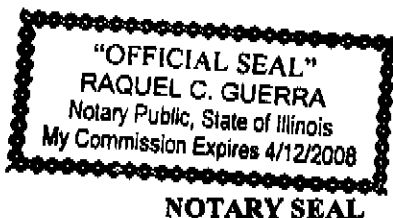
1. My race is black.
2. My performance was satisfactory. I started working for Respondent on December 22, 1998, and I had a good employment record.
3. On April 3, 2006, Eusinia (last name unknown, non-black), Personnel Officer, discharged me. The reason given was failing to return to work without asking for additional time off.

Continued...lgy

I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS

R. C. Seem 7/26/06
 NOTARY SIGNATURE MONTH DATE-YEAR



Patricia Winkfield
 SIGNATURE OF COMPLAINANT DATE 7-26-06

I declare under penalty that the foregoing is true and correct I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief

Charge Number: 2007CF0155

Complainant: Patricia Winkfield

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4. **Eusinia claimed I did not request additional time for my medical leave, but I that false. In January, 2006, I went on a medical leave to have an operation. In mid/late March, 2006, I informed Eusinia that I needed additional time off because my doctor was not going to release me to return to work on the date Respondent expected me to return.**
5. **Non-black employees are not discharged under similar circumstances.**

lgv

FILING SUIT IN COURT OF COMPETENT JURISDICTION**PRIVATE SUIT RIGHTS:**

This issuance of this Notice of Right to Sue ends EEOC's process with respect to your charge. You may file a lawsuit against the respondent named in your charge within 90 days from the date you receive this Notice. Therefore you should **keep a record of this date**. Once this 90-day period is over, your right to sue is lost. If you intend to consult an attorney, you should do so as soon as possible. Furthermore, in order to avoid any question that you did not act in a timely manner, if you intend to sue on your own behalf, your suit should be filed **well in advance of the expiration of the 90-day period**.

You may file your lawsuit in a court of competent jurisdiction. Filing this Notice is not sufficient. A court complaint must contain a short statement of the facts of your case which shows that you are entitled to relief. Generally, suits are brought in the state where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office.

You may contact EEOC if you have any questions about your rights, including advice on which court can hear your case, or if you need to inspect and copy information contained in the case file.

A lawsuit against a **private** employer is generally filed in the U.S. District Court.

A lawsuit under Title VII of the Civil Rights Act of 1964, as amended, against a **State agency or a political subdivision of the State** is also generally filed in the U.S. District Court.

However, a lawsuit under the Age Discrimination in Employment Act or the Americans with Disabilities Act or, probably, the Equal Pay Act against a **State instrumentality** (an agency directly funded and controlled by the State) **can only be filed in a State court**.

A lawsuit under the Age Discrimination in Employment Act or the Americans with Disabilities Act or the Equal Pay Act against a **political subdivision of the State**, such as municipalities and counties, may be filed in the U.S. District Court.

For a list of U.S. District Courts, please see reverse side.

IF THE FIRST THREE CHARACTERS OF YOUR EEOC CHARGE NUMBER ARE "21B" AND YOUR CHARGE WAS INVESTIGATED BY THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS (IDHR), REQUEST FOR REVIEWING AND COPYING DOCUMENTS FROM YOUR FILE MUST BE DIRECTED TO IDHR.

ATTORNEY REPRESENTATION:

If you cannot afford or have been unable to obtain a lawyer to represent you, the court having jurisdiction in your case may, assist you in obtaining a lawyer. If you plan to ask the court to help you obtain a lawyer, you must make this request of the court in the form and manner it requires. Your request to the court should be made well before the end of the 90-day period mentioned above. A request for representation does not relieve you of the obligation to file a lawsuit within this 90-day period.

DESTRUCTION OF FILE:

If you file suit, you or your attorney should forward a copy of your court complaint to this office. Your file will then be preserved. Unless you have notified us that you have filed suit, your charge file could be destroyed as early as six months after the date of the Notice of Right to Sue.

IF YOU FILE SUIT, YOU OR YOUR ATTORNEY SHOULD NOTIFY THIS OFFICE WHEN THE LAWSUIT IS RESOLVED.